



FH

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/173745

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**PRELIMINARY RECITALS**

Pursuant to a petition filed April 19, 2016, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to deny Medical Assistance (MA) authorization for speech therapy (ST), a hearing was held on May 25, 2016, at La Crosse, Wisconsin, with the parties appearing by telephone.

The issue for determination is whether petitioner can receive private ST while receiving ST in school.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Written submission of [REDACTED], ST Consultant

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a 4-year-old resident of La Crosse County who receives MA.
2. Petitioner has Down syndrome with disorders in phonological and expressive language disorders. On February 22, 2016, Gunderson Lutheran Medical Center requested prior authorization for twice weekly ST for 26 weeks, PA no. [REDACTED]. By a letter date April 1, 2016 the DHCAA denied the request.
3. Petitioner receives ST services in school. The school services focus communicating with peers and teachers, primarily through signs and non-verbal imitation with some simply vocalization.

4. The private therapist seeks to work on actual vocalization, such as keeping his tongue in his mouth when imitating sounds. Although this is the first PA request, petitioner has been seen at Gunderson since 2013, with petitioner actually falling behind his peer group in language and speech development.
5. There is no evidence of coordination between the school and private therapists.

### **DISCUSSION**

Speech and language therapy is an MA-covered service, subject to prior authorization after the first 35 treatment days. Wis. Admin. Code, §DHS 107.18(2). In determining whether to approve such a therapy request, the Bureau employs the generic prior authorization criteria found at §DHS 107.02(3)(e). Those criteria include the requirements that a service be medical necessary, appropriate, and an effective use of available services. Included in the definition of “medically necessary” at §DHS 101.03(96m) are the requirements that services not be duplicative of other services, and that services be cost effective when compared to alternative services accessible to the recipient. When speech therapy is requested for a school age child in addition to therapy provided by the school system, the request must substantiate the medical necessity of the additional therapy as well as the procedure for coordination of the therapies. Prior Authorization Guidelines, Physical, Occupational, and Speech Therapy, Topics 2781 and 2784. It is up to the provider to justify the provision of the service. §DHS 107.02(3)(d)6.

The Department takes the position, and prior hearing decisions have held, that where speech therapy is provided in school, it would not be cost effective for MA to cover private therapy. If the private therapy covers a situation that school therapy does not address, it has been found that the services are not duplicative.

In this case there has been little or no coordination between the school and private therapists. Petitioner’s private therapist said that she spoke with the school therapist, but that was to ask what they are doing at school, not to coordinate therapies. I believe this situation is a perfect example of why there needs to be coordination. It is evident that the school therapist is not working on vocalization, but instead is working primarily on non-verbal communication. If the school therapist does not believe that petitioner can develop vocal speech, then it does not seem effective to pay for private therapy to work on vocal speech. That petitioner has fallen behind his peers despite ongoing ST suggests that the school therapist’s approach might be best suited for petitioner. If the school therapist feels that petitioner can develop vocal communication, she could coordinate therapy with the private therapist to work on vocal communication, or she could work on vocal communication herself.

I conclude that the denial was correct. The private therapy is not sufficiently different from the school therapy, and not coordinated with the school therapy, to warrant approval.

### **CONCLUSIONS OF LAW**

The DHCAA correctly denied private ST services because petitioner is receiving services in school with similar communication goals.

**THEREFORE, it is**

**ORDERED**

That the petition for review is hereby dismissed.

## REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 31st day of May, 2016

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\sBrian C. Schneider  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on May 31, 2016.

Division of Health Care Access and Accountability